

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Matthew Chaves	Team: Squad #16	CCRB Case #: 202100260	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 12/31/2020 2:11 AM	Location of Incident: § 87(2)(b)	Precinct: 101	18 Mo. SOL 6/30/2022	EO SOL 6/30/2022	
Date/Time CV Reported Thu, 12/31/2020 4:50 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 01/11/2021 10:51 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Juan Quiroz	03694	939263	SRG 4
2. POM Joseph Mauro	03303	949940	SRG 4

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jorge Perez	13859	959886	SRG 4
2. POM Charles Contato	29484	938256	SRG 4

Officer(s)	Allegation	Investigator Recommendation
A.SGT Juan Quiroz	Abuse: Sergeant Juan Quiroz questioned § 87(2)(b)	§ 87(2)(b)
B.SGT Juan Quiroz	Abuse: Sergeant Juan Quiroz frisked § 87(2)(b)	§ 87(2)(b)
C.SGT Juan Quiroz	Abuse: Sergeant Juan Quiroz questioned § 87(2)(b)	§ 87(2)(b)
D.SGT Juan Quiroz	Abuse: Sergeant Juan Quiroz frisked § 87(2)(b)	§ 87(2)(b)
E.POM Joseph Mauro	Discourtesy: Police Officer Joseph Mauro spoke discourteously to § 87(2)(b)	§ 87(2)(b)
F.POM Joseph Mauro	Force: Police Officer Joseph Mauro used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

At 4:50 AM on December 31, 2020, Sgt. Juan Quiroz of SRG 4 called the IAB command center to report a Level II use of force. This generated original log number § 87(2)(b), which was assessed as an § 87(2)(b) IAB generated referral log number § 87(2)(b), which reached the CCRB on January 11, 2021.

At approximately 2:11 AM on December 31, 2020, Sgt. Quiroz and PO Jorge Perez of SRG 4 observed § 87(2)(b) and § 87(2)(b) drinking from open beer bottles in front of § 87(2)(b) in Queens. Sgt. Quiroz asked both men whether they were carrying weapons and frisked them (**Allegation A: Abuse of Authority: Question: § 87(2)(g)** **Allegation B: Abuse of Authority: Frisk: § 87(2)(g)** **Allegation C: Abuse of Authority: Question: § 87(2)(g)** **Allegation D: Abuse of Authority: Frisk: § 87(2)(g)**).

Sgt. Quiroz obtained ID from § 87(2)(b) but not § 87(2)(b). Sgt. Quiroz called for backup, and PO Joseph Mauro, PO Charles Contato, PO Jeffrey Evans, PO Hassan Jamil, and PO Krista Chan of SRG 4 came to the scene. Sgt. Quiroz ordered his subordinate officers to arrest § 87(2)(b) and officers handcuffed him against a fence. PO Mauro then led § 87(2)(b) towards a police SUV.

As they approached the vehicle, § 87(2)(b) complained of wrist pain due to the handcuffs irritating a previous injury. PO Mauro allegedly whispered, “Shut the fuck up and get in the fucking car.” (**Allegation E: Discourtesy: Word: § 87(2)(g)**) PO Mauro then allegedly punched § 87(2)(b) in his jaw and neck (**Allegation F: Force: Physical Force: § 87(2)(g)**) and said, “This fucker spit at me” (within **Allegation E**).

§ 87(2)(b) was arrested and charged with obstructing governmental administration (OGA), consuming an alcoholic beverage in public, disorderly conduct, unlawful possession of marijuana, and harassment (**Board Review 01**). § 87(2)(b) received two on-scene summonses for littering and consuming an alcoholic beverage in public.

The investigation obtained surveillance video of the incident area from both § 87(2)(b) and § 87(2)(b). While these videos capture the incident from a distance, they are not clear enough to serve as material evidence regarding the FADO allegations. The investigation also obtained BWC videos from Sgt. Quiroz (**Board Review 02**), PO Perez (**Board Review 03**), PO Contato (**Board Review 04**), PO Evans (**Board Review 05**), PO Mauro (**Board Review 06**), PO Jamil (**Board Review 07**), and PO Chan (**Board Review 08**).

Findings and Recommendations

Allegation A – Abuse of Authority: Question: Sergeant Juan Quiroz questioned § 87(2)(b)

Allegation B – Abuse of Authority: Frisk: Sergeant Juan Quiroz frisked § 87(2)(b)

Allegation C – Abuse of Authority: Question: Sergeant Juan Quiroz questioned § 87(2)(b)

Allegation D – Abuse of Authority: Frisk: Sergeant Juan Quiroz frisked § 87(2)(b)

§ 87(2)(b) provided a statement on May 4, 2021 (**Board Review 09**). § 87(2)(b) provided a statement on June 13, 2021 (**Board Review 10**). Sgt. Quiroz was interviewed on September 22, 2021 (**Board Review 11**).

In his interview, Sgt. Quiroz said that he and PO Perez were driving on Beach 54th Street in Queens when they saw § 87(2)(b) and § 87(2)(b) both holding open, green, glass Heineken bottles. In their statements, both civilians acknowledged holding open beer bottles prior to the officers approaching. As per his own statement, Sgt. Quiroz decided to approach the civilians based solely on the open containers. He did not decide to investigate this location or these people based on any prior information. Sgt. Quiroz observed the two men for a few seconds before PO Perez stopped the police SUV and the officers got out.

Sgt. Quiroz's BWC video (**Board Review 02**) clearly shows what happened next. At 0:50, Sgt. Quiroz got out of the SUV and approached the civilians, who were walking on the sidewalk. At 1:00, as audio began recording, Sgt. Quiroz asked if the men had ID. § 87(2)(b) (wearing a red coat) said that he did, and Sgt. Quiroz immediately asked if he had any weapons on his person. § 87(2)(b) replied that he did not, and Sgt. Quiroz began frisking him. Sgt. Quiroz patted down § 87(2)(b)'s waist area and squeezed his pants pockets. After frisking him, Sgt. Quiroz asked to see § 87(2)(b)'s ID.

At 1:20 in the video, Sgt. Quiroz moved from § 87(2)(b) to § 87(2)(b) (wearing a black coat). Sgt. Quiroz asked § 87(2)(b) if he had any weapons on him, then told § 87(2)(b) that he "was being very combative." § 87(2)(b) and Sgt. Quiroz spoke back and forth, then Sgt. Quiroz frisked § 87(2)(b) (1:40 in the video, note the swiping sounds as Sgt. Quiroz pats down § 87(2)(b)'s winter coat). This frisk is also visible in PO Perez's BWC video (1:05 to 1:25 of **Board Review 03**).

In his interview, Sgt. Quiroz said that as soon as he opened his SUV door, he asked the civilians for ID. This was the first thing he said to the men. The BWC video corroborates this account. However, Sgt. Quiroz also said that both civilians initially said they did not have ID. The BWC contradicts this, showing that § 87(2)(b) told Sgt. Quiroz he had ID, and that Sgt. Quiroz in turn asked to see it.

In his interview, Sgt. Quiroz said that, prior to questioning or frisking the men, he intended to arrest them both and transport them to the stationhouse because they did not have ID and had committed a summonable offense (open container violation). Sgt. Quiroz did not suspect either man of having a weapon. Sgt. Quiroz asked the civilians about weapons and frisked them solely because, at this point, he intended to transport them to the stationhouse in police vehicles. At this point in the incident, Sgt. Quiroz did not search either civilian, including by reaching into their pockets. The frisks did not reveal any contraband, weapons, or suspicious items.

Sgt. Quiroz's BWC contradicts his interview statement that he intended to arrest and transport both men to the stationhouse prior to questioning or frisking them. At 1:50 in his BWC, having already questioned and frisked both men, Sgt. Quiroz says, "So we're going to make a decision tonight. We can give you a summons here or back at the Precinct. What do you want to do?" § 87(2)(b) asks that Sgt. Quiroz issue him a summons on scene, and Sgt. Quiroz again asks for his ID. § 87(2)(b) replies that he doesn't have his ID with him, and after a back-and-forth exchange, Sgt. Quiroz says that § 87(2)(b) "has made the decision" and will be arrested.

To ask a civilian an accusatory question about a crime, an officer must have a founded suspicion that the civilian has committed the crime in question. To frisk a civilian, an officer must have a reasonable suspicion that the civilian has committed a crime and is armed (*People v. De Bour* 40 N.Y.2d 210 (1976)) (**Board Review 12**).

By Sgt. Quiroz's own account, he had no suspicion that either civilian was armed during this incident. Rather, he purportedly asked both men about possessing weapons and frisked them for weapons as preparation for transporting them in a police vehicle to a stationhouse as arrestees. However, the BWC video and undisputed facts of the incident contradict Sgt. Quiroz's explanation. The video shows that § 87(2)(b) immediately offered to provide ID to the officers, and the officers eventually issued him summonses on scene. Furthermore, while officers did eventually arrest and transport § 87(2)(b) the BWC video explicitly shows that Sgt. Quiroz decided to do so after questioning and frisking both civilians. § 87(2)(g)

Allegation E – Discourtesy: Police Officer Joseph Mauro spoke discourteously to § 87(2)(b)

Allegation F – Force: Word: Police Officer Joseph Mauro used physical force against § 87(2)(b)

PO Mauro was interviewed on September 21, 2021 (**Board Review 13**).

In his interview, § 87(2)(b) said that after officers handcuffed him, Sgt. Quiroz called PO Mauro over to take custody of § 87(2)(b) PO Mauro escorted § 87(2)(b) toward a police vehicle, walking off to § 87(2)(b)'s right side. PO Mauro moved § 87(2)(b)'s left wrist so that his hands changed position, and this caused § 87(2)(b) pain due to a previous injury in that limb. § 87(2)(b) asked, "What the fuck are you doing?" and PO Mauro whispered, "Shut the fuck up and get in the fucking car." § 87(2)(b) said, "You shut the fuck up," and PO Mauro threw a single overhand punch into his jaw and neck. PO Mauro appeared surprised by his own action, then said "This fucker spit at me." § 87(2)(b) repeatedly denied spitting at PO Mauro to the investigation.

In his phone statement, § 87(2)(b) said that he watched as officers escorted § 87(2)(b) toward a police vehicle, then punched him in the head, kicked him in the leg, twisted one of his arms, and pushed him inside the vehicle. An officer cursed at § 87(2)(b) by telling him to "shut the fuck up." The force lasted a few seconds.

In his interview, PO Mauro said that as he escorted § 87(2)(b) toward a police SUV, § 87(2)(b) complained that his handcuffs were too tight. PO Mauro replied that he would check them. However, to PO Mauro's observation the handcuffs were

fastened correctly and were not cutting, pinching, or twisting on § 87(2)(b)'s wrists. As they walked, § 87(2)(b) tried to pull away from PO Mauro three or four times by twisting his shoulders and bending at the waist. However, § 87(2)(b) never broke free of PO Mauro's grip or used other motions to resist.

As they approached the SUV, § 87(2)(b) turned his torso, shoulders, neck, and head around so that he was looking backwards at PO Mauro, who was standing directly behind him. § 87(2)(b) (who was noticeably taller than PO Mauro) bent his head downward and spit at PO Mauro. PO Mauro ducked as he heard § 87(2)(b) make a spitting noise with his mouth. § 87(2)(b) did not cough as he apparently spit. PO Mauro did not see saliva leave § 87(2)(b)'s mouth because he was ducking and assumed the saliva either landed on his back or missed his body.

PO Mauro believed that § 87(2)(b) was also trying to headbutt him as he moved his head downward because of the pace at which he moved his head. PO Mauro never saw § 87(2)(b) cock his head backwards as though to prepare a headbutt, and § 87(2)(b) only moved his head downward once. In response to the spit and apparent headbutt, PO Mauro raised his right arm, right hand fully open, upwards and away from his chest to approximately his head level. This was intended as a block, not a strike. § 87(2)(b)'s head moving downward combined with PO Mauro's outreaching block led to contact between PO Mauro's open hand and an unknown portion of § 87(2)(b)'s head or face. This was the only time that PO Mauro touched § 87(2)(b)'s head or face, and he never struck him with a closed fist or intentionally slapped him with an open hand. PO Mauro described § 87(2)(b) as spitting at him very soon after PO Mauro said that he would check the handcuffs.

The investigation showed PO Mauro the TRI prepared for this incident (**Board Review 14**) and PO Mauro confirmed that the block he described was the action described as a "hand strike" in the "type of force used by MOS" field. He acknowledged the TRI's narrative section and said that he did not have anything to add or clarify about it.

PO Mauro denied cursing at § 87(2)(b) including telling him to "shut the fuck up." PO Mauro's BWC video corroborates that PO Mauro did not curse at § 87(2)(b) during this incident. At 3:50 in the video, after getting § 87(2)(b) fully inside the police SUV and closing the SUV's door, PO Mauro turned to Sgt. Quiroz and said, "No I'm trying to, fuckin', I'm trying to help this guy out, he spits at me." This is the only profanity recorded by the BWC audio.

The available BWC video does not offer a clear account of whether § 87(2)(b) spit at or otherwise threatened PO Mauro or what force PO Mauro used. None of the witness officers' BWC videos show the relevant portion of the incident, and PO Mauro's BWC video is unclear due to how close § 87(2)(b) was standing to the camera. However, PO Mauro's video makes it clear that § 87(2)(b) and PO Mauro physically struggled and accused one another of spitting at and punching the other, respectively (3:00 to 3:50 of **Board Review 06**).

As part of his interview, the investigation played all of PO Mauro's BWC video after the 1-minute mark. PO Mauro confirmed that the video showed him and Sgt. Quiroz handcuffing § 87(2)(b) and declined to provide additional details. He confirmed that from 3:10 to 3:20 the video showed the period in which § 87(2)(b) spit at him and described this portion of the video as consistent with his prior statement. The investigation noted that it appeared as though there were two moments of separation and contact between § 87(2)(b)'s body and PO Mauro's from approximately 3:15 to 3:25 in the video. PO

Mauro said that this was likely the result of § 87(2)(b) initially attacking him and his blocking, followed by § 87(2)(b) pulling away and PO Mauro grabbing § 87(2)(b)'s shoulder and upper torso to maintain control over him.

As noted above, the BWC video corroborates PO Mauro's statement that he did not curse at § 87(2)(b) during this incident. § 87(2)(g)

It is undisputed that PO Mauro escorted § 87(2)(b) who was fully rear-handcuffed, to the rear passenger door of a police SUV for transport as an arrestee.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 15**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 16**).
- Sgt. Quiroz has been a member of service for 16 years and has been a subject in 12 prior CCRB complaints and 20 allegations, four of which were substantiated. Sgt. Quiroz's CCRB history does not indicate a pattern relevant to this case.
 - CCRB complaint number 200914325 involved substantiated allegations of abuse of authority (stop, threat of force, and retaliatory summons) against Sgt. Quiroz, § 87(2)(g), § 87(4-b). The Board recommended Charges, and the NYPD enforced Command Discipline B.
 - CCRB complaint number 200918246 involved a substantiated allegation of force (gun pointed) against Sgt. Quiroz. The Board recommended Charges, and the NYPD enforced no disciplinary action.
- PO Mauro has been a member of service for 10 years and has been a subject in one prior CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation.
- As of November 26, 2021, the NYC Comptroller's Office had no record of a Notice of Claim being filed regarding this incident (**Board Review 17**).

§ 87(2)(b)

- § 87(2)(b) [Redacted]

Squad No.: 16

Investigator:	Matt Chaves Signature	SI Matt Chaves Print Title & Name	04/08/2022 Date
Squad Leader:	Patrick Yu Signature	IM Patrick Yu Print Title & Name	04/11/2022 Date
Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date